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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,460	11/21/2003	William A. Hood	2-5169-053	2582
803	7590	07/06/2005	EXAMINER	
STURM & FIX LLP 206 SIXTH AVENUE SUITE 1213 DES MOINES, IA 50309-4076			MAMMEN, NATHAN SCOTT	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/719,460

Applicant(s)

HOOD ET AL.

Examiner

Nathan S Mammen

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 14-17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 2 is/are allowed.
- 6) ☒ Claim(s) 3-13, 18-20 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claims 14-17 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The claims are method claims, and the method can be accomplished using a different apparatus than claimed in the previously presented apparatus claims. Therefore, restriction would be proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 14-17 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 102***

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2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 4-12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,006,504 to Myers et al., cited by Applicant.

The Myers '504 patent discloses a round baler having two flat panels (22) and a netwrap inlet area configured to accept netwrap material wider than the length between the two flat panels. The baler comprises a front side defined by a roller (40). The portion of the roller between the belts (46) is in direct contact with the bale. The baler has a rear side defined by a belt roller (38) that has a length approximately equal to the length of the bale. The flat panels

Art Unit: 3671

(22) define first and second sides of the bale. Arcuate wedge members (204) are attached to the flat panels and are concentric to the roller. The netwrap material (162) contacts the formed bale in a void created by the wedges (204).

Regarding claims 4-7: The netwrap mechanism feeds the net wrap underneath the baler. The arcuate wedge members (204) have an inherent amount of flexibility, and the members act as net guides (see 8, lines 29-31). The supporting cross members (112, 86 and 88) for the netwrap mechanism are spaced more than 10 inches from the lower rollers (38 and 40).

Regarding claims 8-11: The net guide member (204) is located at a position generally above the pickup (see Figs. 1-2) and consists of horizontal and vertical plates.

Regarding claim 12: The netwrap mechanism further includes a net knife (234, 240).

***Claim Rejections - 35 USC § 103***

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,006,504 to Myers et al., cited by Applicant, in view of U.S. Patent No. 6,550,218 to McClure et al.

The Myers '504 patent discloses a round baler having two flat panels (22) and a netwrap inlet area configured to accept netwrap material wider than the length between the two flat panels. The baler comprises a front side defined by a roller (40). The portion of the roller between the belts (46) is in direct contact with the bale. The baler has a rear side defined by a

Art Unit: 3671

belt roller (38) that has a length approximately equal to the length of the bale. The flat panels (22) define first and second sides of the bale. Arcuate wedge members (204) are attached to the flat panels and are concentric to the roller. The netwrap material (162) contacts the formed bale in a void created by the wedges (204). What the Myers '504 patent does not disclose is that the baler also has a drum roller devoid of belts in front of the belt rollers. The McClure '218 patent teaches that it is known in the art to provide a round baler with a drum roller (6) leading the belt rollers (40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the baler of the Myers '504 patent with the drum roller taught by the McClure '218 patent, in order to provide greater support for the bale in the area of the crop intake.

Regarding claims 18-20: The Myers round baler wraps the round bales by disposing the wrapping material over the leading belt roller (i.e., the belt roller nearest the intake – see Fig. 4).

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Clearly, the Myers '504 patent does not disclose disposing the wrapping material between the drum roller and the belt roller, since, as stated above, the Myers '504 patent does not disclose a drum roller. But, as stated above, one of ordinary skill in the art would find it obvious to provide the Myers round baler with a drum roller as taught by the McClure '218 patent to provide greater support. One of ordinary skill in the art would recognize that the simplest way to combine the drum roller of McClure with the Myers round baler would be to move the belt roller structure rearward – without changing the wrapping arrangement, in which the net wrap is fed over the belt roller. In that case, when the McClure drum roller is combined with the Myers round baler, the net wrap material would be fed between the belt roller and the drum roller.

Art Unit: 3671

***Allowable Subject Matter***

6. Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 1-2 are allowed.

***Response to Arguments***

8. Applicants' arguments filed 4/13/05 have been fully considered but they are not persuasive.

As stated above, the McClure '218 patent teaches providing a round baler with a drum roller devoid of belts. The wedges (204) of the Myers '504 patent extend partially in front of the belt roller (see Figs. 2 and 4). The netwrap material is wrapped around the front of the belt roller; thus, the netwrap material first contacts the bale in front of the belt roller and in a void created by the wedges. Contrary to what Applicant argues, Remarks at page 11, claim 3 does not require the void created by the arcuate wedge to be in front of the belt roller. Claim 3 only requires that the netwrap material contact the bale in front of the bale roller and that the netwrap material contact the bale in a void created by the wedges. The wedges of the Myers '504 patent do both.

Applicants argue that the Myers '504 patent fails to show flexible net guides. However, here and in the previous Office action, the examiner stated that the arcuate wedges have an inherent degree of flexibility and that the wedges act as net guides. Applicants have not refuted this statement.

Art Unit: 3671

Applicants' arguments that the rollers (112, 86, 88) of the Myers '504 patent are not the "supporting cross members" that Applicant contemplates are unpersuasive. The instant claims fail to distinguish "supporting cross members" over the cross member rollers of the Myers '504 patent. While Applicant may certainly intend for the cross members to be something else, the claims do not require it, and "the name of the game is the claim." In re Hiniker, 150 F.3d 1362, 1369 (Fed. Cir. 1998).

### *Conclusion*

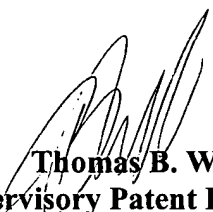
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (571) 272-6991. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

Art Unit: 3671

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (571) 272-6998. The fax number for this Group is (703) 872-9306.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group 3600**

**NSM**  
**6/27/05**

**Nathan S. Mammen**

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